

**IN THE U.S. DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

GREENPOINT CREDIT, L.L.C.

Plaintiff,

v.

MISSOURI DEPARTMENT OF REVENUE,

and

TRISH VINCENT, et al.,

Defendants.

Cause No. 4:06-CV-01845

**PLAINTIFF GREENPOINT CREDIT'S APPLICATION  
FOR ATTORNEYS' FEES AND COSTS**

COMES NOW Plaintiff, GreenPoint Credit, L.L.C., and for its Application for Attorneys' Fees states as follows:

1. On August 30, 2001, Plaintiff GreenPoint Credit, LLC and Conseco Finance Servicing Corp. simultaneously filed two independent cases in the Circuit Court of St. Louis County, Missouri against Defendant Missouri Department of Revenue. Each of the cases sought to enjoin Defendant Missouri Department of Revenue from issuing titles pursuant to the Abandoned Manufactured Home - Title Disposition Act (the "Act"), RSMo §§ 700.525 to 700.541.

2. GreenPoint Credit and Conseco Finance retained the same law firm to represent them on the cases, i.e., the law firm of Murphy Wasinger, L.C., and each paid attorneys' fees in connection with the prosecution of the cases. The clients were each advised, consented and requested the representation be handled by Murphy Wasinger, L.C. The law firm of Gray, Ritter & Graham assisted with this case after it was removed to federal court.

3. Both GreenPoint Credit and Conseco Finance argued the actions of the Department of Revenue, and the statutory scheme, were unconstitutional.

4. On February 13, 2002, the Circuit Court of St. Louis County entered judgment in favor of GreenPoint Credit and Conseco Finance on each of the cases.

5. The Missouri Department of Revenue appealed each of the judgments to the Missouri

Supreme Court, and the Missouri Supreme Court reversed and remanded each of the cases on identical grounds. See GreenPoint Credit v. Missouri Department of Revenue, 98 S.W.3d 553 (Mo banc 2003) and Conseco Finance Servicing Corp. V. Missouri Department of Revenue, 98 S.W.3d 540 (Mo banc 2003).

6. Both GreenPoint Credit and Conseco Finance paid respective portions of the attorneys' fees incurred in prosecuting the cases and subsequent appeals.

7. After the case was remanded back to the trial court, the parties engaged in discovery and also entered into an Agreed Stipulation of Facts.

8. The trial court indicated it would again rule in favor of Plaintiffs, and the parties further agreed that only one case would be briefed and appealed to the Missouri Supreme Court, because the issues were identical. The Conseco case was chosen, and GreenPoint agreed to share costs of the appeal.

9. On May 15, 2005, the Circuit Court of St. Louis County again entered a judgment in favor of Plaintiff Conseco Finance Servicing Corp. A copy of the judgment is attached hereto as Exhibit 1.

10. The trial court held that "Plaintiffs claims for injunctive and declaratory relief under 42 U.S.C. §1983 are granted", and issued an injunction against Defendant Missouri Department of Revenue.

11. This judgment was appealed to the Missouri Supreme Court, which affirmed the trial court's judgment. Conseco v. Missouri Department of Revenue, 195 SW 3d 410 (Mo. banc 2006).

12. Following this ruling, Conseco Finance filed an Application for Attorneys' Fees with the Circuit Court of St. Louis County, Missouri.

13. The Missouri Department of Revenue opposed the Application for Attorneys' Fees.

14. The Circuit Court of St. Louis County entered a judgment awarding Conseco the entire sum of attorneys' fees requested, more specifically the sum of \$79,553.06 for attorneys' fees plus costs of \$2,598.95 for a total of \$82,152.01. A copy of the judgment is attached hereto as Exhibit 2.

15. The Department of Revenue did not appeal this ruling, and the parties then resolved the remaining issues in this case, thereby disposing of the case.

16. There has already been a finding and judgment that Plaintiff Conseco is a "prevailing party" for purposes of attorneys' fees under 42 U.S.C. 1988.

17. This case and the Conseco case served as a catalyst for the issuance of an injunction, and the Missouri Department of Revenue being enjoined from issuing titles in an unconstitutional fashion.

18. GreenPoint Credit and Conseco Finance shared the burden and cost of prosecuting these claims.

19. Conseco Finance has been awarded its share of attorneys' fees in connection with the successful prosecution of these claims.

20. Similarly, GreenPoint Credit should be awarded its costs and attorneys' fees in connection with the prosecution of these claims.

21. GreenPoint Credit has accrued or paid the sum of \$75,123.00 in attorneys' fees and costs of \$2,695.20 in the successful prosecution of the claims resulting in an injunction being entered

against the Missouri Department of Revenue. A copy of billing statements is attached hereto as Exhibit 3.

WHEREFORE, Plaintiff GreenPoint Credit, LLC respectfully requests its Application for Attorneys' Fees and Costs be granted, that it be awarded fees of \$75,123.00 in attorneys' fees and costs of \$2,695.20 and for such other relief the Court deems fair and reasonable.

MURPHY WASINGER, L.C.

By: /s/ David G. Wasinger  
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CERTIFICATE OF SERVICE

I hereby certify that on September 5, 2007, I electronically transmitted the attached documents to the Clerk of the Court using the ECF System for filing. Based on the electronic records currently on file, the clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrant:

Mark E. Long  
Assistant Attorney General  
P.O. Box 899  
Jefferson City, MO 65102

/s/ David G. Wasinger

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